

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1558**

Citations Affected: IC 22-4; IC 31-9-2-42.

Synopsis: Unemployment compensation for victims of domestic or family violence. Conference committee report for EHB 1558. Provides that the separation from employment when a worker has been a victim of domestic or family violence is not a disqualification for receipt of unemployment compensation. Requires that the domestic or family violence be verified by a law enforcement agency report, a protection order, or an affidavit from a domestic violence service provider verifying that the individual has received services from the provider. Requires the department of workforce development to provide training to employees who interact with claimants for benefits concerning domestic and family violence. **(This conference committee report adds to the types of documentation used to verify that domestic or family violence has occurred an affidavit from a domestic violence service provider that an individual has received services from the provider.)**

Effective: July 1, 2003.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1558 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning labor
- 3 and industrial safety.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 22-4-11-1, AS AMENDED BY P.L.290-2001,
- 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2003]: Sec. 1. (a) For the purpose of charging employers'
- 8 experience or reimbursable accounts with regular benefits paid
- 9 subsequent to July 3, 1971, to any eligible individual but except as
- 10 provided in IC 22-4-22 and subsection (f), such benefits paid shall be
- 11 charged proportionately against the experience or reimbursable
- 12 accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base
- 13 period (on the basis of total wage credits established in such base
- 14 period) against whose accounts the maximum charges specified in this
- 15 section shall not have been previously made. Such charges shall be
- 16 made in the inverse chronological order in which the wage credits of
- 17 such individuals were established. However, when an individual's
- 18 claim has been computed for the purpose of determining ~~his~~ **the**
- 19 **individual's** regular benefit rights, maximum regular benefit amount,

and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or reccredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of ~~his~~ **the individual's** benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. ~~however,~~ This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for all benefit payments which are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, any extended benefits paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and fifty percent (50%) of any extended benefits paid to an eligible individual shall be charged to the experience or reimbursable accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) **and benefits paid under IC 22-4-15-1(c)(8)** shall:

- (1) be paid from the fund; and
- (2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by

1 such individual.

2 (d) Except as provided in subsection (f), if an individual:

3 (1) voluntarily leaves an employer without good cause in
4 connection with the work; or

5 (2) is discharged from an employer for just cause;

6 wage credits earned with the employer from whom the employee has
7 separated under these conditions shall be used to compute the
8 claimant's eligibility for benefits, but charges based on such wage
9 credits shall be paid from the fund and not charged to the experience
10 account of any employer. However, this exception shall not apply to
11 those employers who elect to make payments in lieu of contributions,
12 who shall be charged for all benefit payments which are attributable to
13 service in their employ.

14 (e) Any nonprofit organization which elects to make payments in lieu
15 of contributions into the unemployment compensation fund as provided
16 in this article is not liable to make the payments with respect to the
17 benefits paid to any individual whose base period wages include wages
18 for previously uncovered services as defined in IC 22-4-4-4, nor is the
19 experience account of any other employer liable for charges for
20 benefits paid the individual to the extent that the unemployment
21 compensation fund is reimbursed for these benefits pursuant to Section
22 121 of P.L.94-566. Payments which otherwise would have been
23 chargeable to the reimbursable or contributing employers shall be
24 charged to the fund.

25 (f) If an individual:

26 (1) earns wages during ~~his~~ **the individual's** base period through
27 employment with two (2) or more employers concurrently;

28 (2) is separated from work by one (1) of the employers for reasons
29 that would not result in disqualification under IC 22-4-15-1; and

30 (3) continues to work for one (1) or more of the other employers
31 after the end of the base period and continues to work during the
32 applicable benefit year on substantially the same basis as during
33 the base period;

34 wage credits earned with the base period employers shall be used to
35 compute the claimant's eligibility for benefits, but charges based on the
36 wage credits from the employer who continues to employ the individual
37 shall be charged to the experience or reimbursable account of the
38 separating employer.

39 (g) Subsection (f) does not affect the eligibility of a claimant who
40 otherwise qualifies for benefits nor the computation of ~~his~~ benefits.

41 (h) Unemployment benefits paid shall not be charged to the
42 experience account of a base period employer when the claimant's
43 unemployment from the employer was a direct result of the
44 condemnation of property by a municipal corporation (as defined in
45 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an
46 act of nature, when at least fifty percent (50%) of the employer's
47 employees, including the claimant, became unemployed as a result.
48 This exception does not apply when the unemployment was an
49 intentional result of the employer or a person acting on behalf of the
50 employer.

51 SECTION 2. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section does not apply to an individual who is receiving benefits as determined under IC 22-4-15-1(c)(8).**

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the commissioner, unless the commissioner determines that:
 - (A) the individual has completed the reemployment services; or
 - (B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the board through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

~~(b)~~ (c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

- (1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment; or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;
- (2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;
- (3) that such individual is suspended for misconduct in connection with the individual's work; or
- (4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and ~~holds himself~~ is available for suitable full-time work with the individual's last employer, or ~~holds himself~~ is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The board shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 3. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically

1 substantiated physical disability and who is involuntarily
 2 unemployed after having made reasonable efforts to maintain the
 3 employment relationship shall not be subject to disqualification
 4 under this section for such separation.

5 (3) An individual who left work to enter the armed forces of the
 6 United States shall not be subject to disqualification under this
 7 section for such leaving of work.

8 (4) An individual whose employment is terminated under the
 9 compulsory retirement provision of a collective bargaining
 10 agreement to which the employer is a party, or under any other
 11 plan, system, or program, public or private, providing for
 12 compulsory retirement and who is otherwise eligible shall not be
 13 deemed to have left the individual's work voluntarily without good
 14 cause in connection with the work. However, if such individual
 15 subsequently becomes reemployed and thereafter voluntarily
 16 leaves work without good cause in connection with the work, the
 17 individual shall be deemed ineligible as outlined in this section.

18 (5) An otherwise eligible individual shall not be denied benefits for
 19 any week because the individual is in training approved under
 20 Section 236(a)(1) of the Trade Act of 1974, nor shall the individual
 21 be denied benefits by reason of leaving work to enter such training,
 22 provided the work left is not suitable employment, or because of
 23 the application to any week in training of provisions in this law (or
 24 any applicable federal unemployment compensation law), relating
 25 to availability for work, active search for work, or refusal to accept
 26 work. For purposes of this subdivision, the term "suitable
 27 employment" means with respect to an individual, work of a
 28 substantially equal or higher skill level than the individual's past
 29 adversely affected employment (as defined for purposes of the
 30 Trade Act of 1974), and wages for such work at not less than
 31 eighty percent (80%) of the individual's average weekly wage as
 32 determined for the purposes of the Trade Act of 1974.

33 (6) An individual is not subject to disqualification because of
 34 separation from the individual's employment if:

- 35 (A) the employment was outside the individual's labor market;
- 36 (B) the individual left to accept previously secured full-time
 37 work with an employer in the individual's labor market; and
- 38 (C) the individual actually became employed with the employer
 39 in the individual's labor market.

40 (7) An individual who, but for the voluntary separation to move to
 41 another labor market to join a spouse who had moved to that labor
 42 market, shall not be disqualified for that voluntary separation, if
 43 the individual is otherwise eligible for benefits. Benefits paid to the
 44 spouse whose eligibility is established under this subdivision shall
 45 not be charged against the employer from whom the spouse
 46 voluntarily separated.

47 **(8) An individual shall not be subject to disqualification if the**
 48 **individual voluntarily left employment or was discharged due**
 49 **to circumstances directly caused by domestic or family**
 50 **violence (as defined in IC 31-9-2-42). An individual who may**
 51 **be entitled to benefits based on this modification may apply to**

the office of the attorney general to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article under IC 5-26.5.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

- (1) A report of a law enforcement agency (as defined in IC 5-2-5-1).**
- (2) A protection order issued under IC 34-26-5.**
- (3) A foreign protection order (as defined in IC 34-6-2-48.5).**
- (4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.**

SECTION 4. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized

representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. **For an individual who is not disqualified under section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.**

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new

1 work under any of the following conditions:

2 (1) If the position offered is vacant due directly to a strike, lockout,
3 or other labor dispute.

4 (2) If the remuneration, hours, or other conditions of the work
5 offered are substantially less favorable to the individual than those
6 prevailing for similar work in the locality.

7 (3) If as a condition of being employed the individual would be
8 required to join a company union or to resign from or refrain from
9 joining a bona fide labor organization.

10 (4) If as a condition of being employed the individual would be
11 required to discontinue training into which the individual had
12 entered with the approval of the department.

13 (g) Notwithstanding subsection (e), with respect to extended benefit
14 periods established on and after July 5, 1981, "suitable work" means
15 any work which is within an individual's capabilities. However, if the
16 individual furnishes evidence satisfactory to the department that the
17 individual's prospects for obtaining work in the individual's customary
18 occupation within a reasonably short period are good, the
19 determination of whether any work is suitable work shall be made as
20 provided in subsection (e).

21 (h) With respect to extended benefit periods established on and after
22 July 5, 1981, no work shall be considered suitable and extended
23 benefits shall not be denied under this article to any otherwise eligible
24 individual for refusing to accept new work under any of the following
25 conditions:

26 (1) If the gross average weekly remuneration payable to the
27 individual for the position would not exceed the sum of:

28 (A) the individual's average weekly benefit amount for the
29 individual's benefit year; plus

30 (B) the amount (if any) of supplemental unemployment
31 compensation benefits (as defined in Section 501(c)(17)(D) of
32 the Internal Revenue Code) payable to the individual for such
33 week.

34 (2) If the position was not offered to the individual in writing or
35 was not listed with the department of workforce development.

36 (3) If such failure would not result in a denial of compensation
37 under the provisions of this article to the extent that such
38 provisions are not inconsistent with the applicable federal law.

39 (4) If the position pays wages less than the higher of:

40 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The
41 Fair Labor Standards Act of 1938), without regard to any
42 exemption; or

43 (B) the state minimum wage (IC 22-2-2).

44 (i) The department of workforce development shall refer individuals
45 eligible for extended benefits to any suitable work (as defined in
46 subsection (g)) to which subsection (h) would not apply.

47 SECTION 5. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
48 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
49 JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the
50 department shall promptly make a determination of ~~his~~ **the**
51 **individual's** status as an insured worker in a form prescribed by the

1 board. A written notice of the determination of insured status shall be
2 furnished ~~him~~ **the individual** promptly. Each such determination shall
3 be based on and include a written statement showing the amount of
4 wages paid to the individual for insured work by each employer during
5 the individual's base period and shall include a finding as to whether
6 such wages meet the requirements for the individual to be an insured
7 worker, and, if so, the week ending date of the first week of the
8 individual's benefit period, the individual's weekly benefit amount, and
9 the maximum amount of benefits that may be paid to the individual for
10 weeks of unemployment in the individual's benefit period. For the
11 individual who is not insured, the notice shall include the reason for the
12 determination. Unless the individual, within twenty (20) days after such
13 determination was mailed to the individual's last known address, or
14 otherwise delivered to the individual, asks a hearing thereon before an
15 administrative law judge, such determination shall be final and benefits
16 shall be paid or denied in accordance therewith.

17 (b) **Except as provided in subsection (i)**, the department shall
18 promptly furnish each employer in the base period whose experience
19 or reimbursable account is potentially chargeable with benefits to be
20 paid to such individual with a notice in writing of the employer's
21 benefit liability. Such notice shall contain the date, the name and social
22 security account number of the individual, the ending date of the
23 individual's base period, and the week ending date of the first week of
24 the individual's benefit period. Such notice shall further contain
25 information as to the proportion of benefits chargeable to the
26 employer's experience or reimbursable account in ratio to the earnings
27 of such individual from such employer. Unless the employer, within
28 twenty (20) days after such notice of benefit liability was mailed to the
29 employer's last known address, or otherwise delivered to the employer,
30 asks a hearing thereon before an administrative law judge, such
31 determination shall be final and benefits paid shall be charged in
32 accordance therewith.

33 (c) An employing unit, including an employer, having knowledge of
34 any facts which may affect an individual's eligibility or right to waiting
35 period credits or benefits, shall notify the department of such facts
36 within twenty (20) days after the mailing of notice that a former
37 employee has filed an initial or additional claim for benefits on a form
38 prescribed by the board.

39 (d) In addition to the foregoing determination of insured status by the
40 department, the deputy shall, throughout the benefit period, determine
41 the claimant's eligibility with respect to each week for which the
42 claimant claims waiting period credit or benefit rights, the validity of
43 the claimant's claim therefor, and the cause for which the claimant left
44 the claimant's work, or may refer such claim to an administrative law
45 judge who shall make the initial determination with respect thereto in
46 accordance with the procedure in IC 22-4-17-3.

47 (e) In cases where the claimant's benefit eligibility or disqualification
48 is disputed, the department shall promptly notify the claimant and the
49 employer or employers directly involved or connected with the issue
50 raised as to the validity of such claim, the eligibility of the claimant for
51 waiting period credit or benefits, or the imposition of a disqualification

period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within twenty (20) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within twenty-five (25) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) No person may participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made.

SECTION 6. IC 22-4-18-1, AS AMENDED BY P.L.290-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce

1 development.

2 (b) The department of workforce development may:

3 (1) Administer the unemployment insurance program, the
4 Wagner-Peyser program, the Workforce Investment Act, the Job
5 Training Partnership Act program, including a free public labor
6 exchange, and related federal and state employment and training
7 programs as directed by the governor.

8 (2) Formulate and implement an employment and training plan as
9 required by the Workforce Investment Act (29 U.S.C. 2801 et
10 seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.),
11 and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

12 (3) Coordinate activities with all state agencies and departments
13 that either provide employment and training related services or
14 operate appropriate resources or facilities, to maximize Indiana's
15 efforts to provide employment opportunities for economically
16 disadvantaged individuals, dislocated workers, and others with
17 substantial barriers to employment.

18 (4) Apply for, receive, disburse, allocate, and account for all funds,
19 grants, gifts, and contributions of money, property, labor, and other
20 things of value from public and private sources, including grants
21 from agencies and instrumentalities of the state and the federal
22 government.

23 (5) Enter into agreements with the United States government that
24 may be required as a condition of obtaining federal funds related
25 to activities of the department.

26 (6) Enter into contracts or agreements and cooperate with local
27 governmental units or corporations, including profit or nonprofit
28 corporations, or combinations of units and corporations to carry out
29 the duties of this agency imposed by this chapter, including
30 contracts for the establishment and administration of employment
31 and training offices and the delegation of its administrative,
32 monitoring, and program responsibilities and duties set forth in this
33 article. Before executing contracts described by this subdivision,
34 the department shall give preferential consideration to using
35 departmental personnel for the provision of services through local
36 public employment and training offices. Contracting of
37 Wagner-Peyser services is prohibited where state employees are
38 laid off due to the diversion of Wagner-Peyser funds.

39 (7) Perform other services and activities that are specified in
40 contracts for payments or reimbursement of the costs made with
41 the Secretary of Labor or with any federal, state, or local public
42 agency or administrative entity under the Workforce Investment
43 Act (29 U.S.C. 2801 et seq.), the Job Training Partnership Act (29
44 U.S.C. 1501 et seq.), or private nonprofit organization.

45 (8) Enter into contracts or agreements and cooperate with entities
46 that provide vocational education to carry out the duties imposed
47 by this chapter.

48 (c) The department of workforce development may not enter into
49 contracts for the delivery of services to claimants or employers under
50 the unemployment insurance program. The payment of unemployment
51 compensation must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:

(1) 29 U.S.C. 2801 et seq., 29 U.S.C. 1501 et seq., and other applicable federal laws; and

(2) the plan prepared by the department under subsection (g)(1).

However, the Indiana commission on vocational and technical education within the department of workforce development shall distribute federal funds received under 29 U.S.C. 1533.

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall do the following:

(1) Implement to the best of its ability its employment training programs (as defined in IC 20-1-18.3-3), the comprehensive vocational education program in Indiana developed under the long range plan under IC 20-1-18.3-10, and the skills 2016 training program established under IC 22-4-10.5.

(2) Upon request of the budget director, prepare a legislative budget request for state and federal funds for employment training. The budget director shall determine the period to be covered by the budget request.

(3) Evaluate its programs according to criteria established by the Indiana commission on vocational and technical education within the department of workforce development under IC 20-1-18.3-13.

(4) Make or cause to be made studies of the needs for various types of programs that are related to employment training and authorized under the Workforce Investment Act and the Job Training Partnership Act.

(5) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with:

(A) the general assembly appropriation; and

(B) the plan prepared by the department under subdivision (1).

(6) Establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid and to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the presentation of the training. The initial training shall consist of

instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.

SECTION 7. IC 22-4-18-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) Before March 1 of each year, the department shall determine the number of claims filed, the number of individuals entitled to receive unemployment benefits under this article, and the amount of benefits charged to the fund for those individuals who qualified for benefits due to:

(1) discharge; or

(2) leaving employment;

for circumstances resulting from domestic or family violence.

(b) The department shall submit its determination from the prior calendar year to the legislative council before June 30 of each year.

SECTION 8. IC 22-4-19-6, AS AMENDED BY P.L.290-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in ~~subsection~~ subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the

department of commerce in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The commissioner may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence is confidential. This information shall not be disclosed to the employer or any other person. Disclosure is subject to the following restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), ~~or~~ (e), **or (f)**; or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter; commits a Class B misdemeanor.

~~(g)~~ **(h) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.**

SECTION 9. IC 31-9-2-42, AS AMENDED BY P.L.133-2002,

1 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2003]: Sec. 42. "Domestic or family violence" means, except
3 for an act of self defense, the occurrence of one (1) or more of the
4 following acts committed by a family or household member:
5 (1) Attempting to cause, threatening to cause, or causing physical
6 harm to another family or household member without legal
7 justification.
8 (2) Placing a family or household member in fear of physical harm
9 without legal justification.
10 (3) Causing a family or household member to involuntarily engage
11 in sexual activity by force, threat of force, or duress.
12 For purposes of **IC 22-4-15-1** and IC 34-26-5, domestic and family
13 violence also includes stalking (as defined in IC 35-45-10-1) or a sex
14 offense under IC 35-42-4.
(Reference is to EHB 1558 as reprinted April 1, 2003.)

Conference Committee Report
on
Engrossed House Bill 1558

Signed by:

Representative Lawson L
Chairperson

Senator Harrison

Representative Becker

Senator Bowser

House Conferees

Senate Conferees